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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/665,025 | CROCITTO, ROBERT W. | |
| | Examiner | Art Unit | |
| | JAMES ZURITA | 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/19/2007.
2. ☒ The allowed claim(s) is/are 14,15,17-19 and 34-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>09/09/2008</u> . 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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/James Zurita/ 09/09/2008

DETAILED ACTION

On 8 December 2006, applicant cancelled claims 1-13 and added claims 14-33.

Claims 14, 15, 17-19 are amended; Claims 16, 20-33 are cancelled; Claims 34-48 are added.

Claims 14-15, 17-19, 34-48 are pending and are allowed.

Examiner's Amendment

The following amendment was authorized by Mr. Crocitto on 09 September 2008:

Claims 14, 15, 17-19 are amended as follows:

14. (Currently amended) A method of distributing content over a communications network, the method comprising the steps of:

A. maintaining content on a user content downloading system in communication with the communications network;

~~B. allowing a first user to access the content downloading system through the communications network~~

~~G.~~ in response to receiving a first request for first content from a first user, downloading the first content to a first remote content storage system through the communications network; ~~and~~

C. in response to receiving a second request for the first content from a second user, downloading the first content to a second remote content storage through the communications network;

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D. in response to receiving a ~~first~~ third ~~subsequent~~ request for said first content ~~another user or from the first~~ a third user, conducting a distribution lottery to select a distribution client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to ~~yet a further~~ a third remote content storage system user; and

E. providing a first award of points to the selected distribution client ~~first user~~.

15. (Currently amended) The method of distributing content of claim 14 also including the step of:

~~E~~ F. in response to ~~at least one among a plurality of further subsequent requests respectively from each among a plurality of additional subsequent users~~ receiving the second request for said first content from the second user, providing ~~at least~~ a second award of points to the first user.

Claim 16 is cancelled.

17. (Currently amended) The method of distributing content of claim 14 wherein the first remote content storage system is the first user's content storage system.

18. (Currently amended) The method of distributing content of claim ~~15~~ 14 also including the step of: wherein (i) ~~the remote content storage system is the first user's content storage system and~~ (ii) ~~the method also includes in step E:~~

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~~E.~~ in response to receiving the third request ~~at least one among said plurality of further subsequent requests respectively from a plurality of additional subsequent users for~~ said first content, downloading the first content from the first user's remote content storage system to ~~at least one additional subsequent user~~ the third remote storage system through the communications network.

19. (Currently amended) The method of distributing content of claim ~~48~~ 14 also including the step of:

F. providing ~~at least a fourth~~ third award of points to the first user.

Claims 20-33 are cancelled.

New claims 34-48 are added:

34. (New) The method of distributing content of claim 14, wherein the first content is downloaded to the second remote content storage from a distribution server.

35. (New) The method of distributing content of claim 14, wherein the first content is downloaded to the second remote content storage from the first remote content storage system.

36. (New) The method of distributing content of claim 14, wherein the pool of distribution clients consists of users that are currently logged in.

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37. (New) The method of distributing content of claim 14, wherein each distribution client of the pool of distribution receives entries based at least in part on available bandwidth of the communications network.

38. (New) The method of distributing content of claim 14, wherein the distribution lottery is based at least in part on the number of points accumulated by each distribution client of the pool of distribution clients.

39. (New) The method of distributing content of claim 38, wherein each distribution client of the pool of distribution receives entries not exceeding the number of points accumulated by any other distribution client of the pool of distribution.

40. (New) A method of distributing content over a communications network, the method comprising the steps of:

A. maintaining content on a user content downloading system in communication with the communications network;

B. receiving a first prerelease request for first content from a first user;

C. receiving a second prerelease request for the first content from a second user;

D. conducting a distribution lottery to select a seed client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to a first remote content storage system; and

E. downloading the first content to the first remote content storage system through the communications network.

41. (New) The method of distributing content of claim 40, also including the step of:

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F. providing an award of points to the selected seed client.

42. (New) The method of distributing content of claim 40, wherein the pool of distribution clients consists of users that are currently logged in.

43. (New) The method of distributing content of claim 40, wherein the distribution lottery is based at least in part on the number of points accumulated by each distribution client of the pool of distribution clients.

44. (New) The method of distributing content of claim 43, wherein each distribution client of the pool of distribution receives entries not exceeding the number of points accumulated by any other distribution client of the pool of distribution.

45. (New) A computer based content delivery system, the system comprising:

A. one or more distribution servers connected to a communications network for maintaining content, receiving requests for content from a plurality of users, and downloading content to a plurality of remote content storage systems through the communications network; and

B. one or more transaction servers connected to the communications network for conducting distribution lotteries to select distribution clients for downloading content from a pool of distribution clients comprised of at least one or more of the plurality of users, and providing awards of points to said selected distribution clients.

46. (New) The computer based content delivery system of claim 45, wherein the pool of distribution clients consists of users that are currently logged in.

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47. (New) The computer based content delivery system of claim 45, wherein a distribution lottery is based at least in part on the number of points accumulated by each distribution client of the pool of distribution clients.

48. (New) The computer based content delivery system of claim 47, wherein each distribution client of the pool of distribution receives entries not exceeding the number of points accumulated by any other distribution client of the pool of distribution.

Examiner's Reasons for Allowance

The following is an examiner's statement of reasons for allowance.

Updated searches were performed on the amended and new claims.

The prior art neither anticipates nor renders obvious distributing content in a peer-to-peer communications network of representative claim 14, *inter alia*

...in response to receiving a first request for first content from a first user, downloading the first content to a first remote content storage system [a node in a peer-peer network] through the communications network;

C. in response to receiving a second request for the first content from a second user, downloading the first content to a second remote content storage [a second node in a peer-peer network] through the communications network;

D. in response to receiving a third request for said first content from a third user, conducting a distribution lottery to select a distribution client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to a third remote content storage system [a third node in a peer-peer network]; and

E. providing a first award of points to the selected distribution client.

In light of the above and in further deliberation over all of the evidence at hand, the claims are allowable as the evidence at hand does not anticipate the claims and does not render obvious any further modification of the references to a person of ordinary skill in the art.

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Examples of award points are provided by applicant in paragraphs 0034-0043.

Examples of distribution lotteries are provided in paragraph 0037.

The closest US prior art of record, Ginter, 5982900, discloses content distribution over networks, but neither anticipates nor renders obvious distributing content in a peer-to-peer communications network representative claim 14, *inter alia*

D. ...conducting a distribution lottery to select a distribution client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to a third remote content storage system [a third node in a peer-peer network]; and

E. providing a first award of points to the selected distribution client.

Also of interest are Suzuki (US PG-PUB 20040153528A1, Digital contents distributing system and distributing method, claiming priority to several applications filed with the Japanese Patent Office, disclosing content distribution in a peer-peer environment, lotteries and award points) and Hobart (US PG-PUB 20020178255A1, Incentive Program for a peer-peer network and point values). Neither publication anticipates nor renders obvious distributing content in a peer-to-peer communications network representative claim 14, *inter alia*

...in response to receiving a first request for first content from a first user, downloading the first content to a first remote content storage system [a node in a peer-peer network] through the communications network;

C. in response to receiving a second request for the first content from a second user, downloading the first content to a second remote content storage [a second node in a peer-peer network] through the communications network;

D. in response to receiving a third request for said first content from a third user, conducting a distribution lottery to select a distribution client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to a third remote content storage system [a third node in a peer-peer network]; and

E. providing a first award of points to the selected distribution client.

The closes non-patent literature is *When creators, corporations and consumers collide:*

©Napster and the development of on-line music distribution, Tom McCourt, Patrick

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Burkart. Media, Culture & Society. London: May 2003. Vol. 25, Iss. 3; pg. 333, downloaded from ProQuest Direct on the Internet on 9 September 2008. Also of interest is the entry for Peer-to-peer from Wikipedia, on the Internet, downloaded on 9 September 2008, 12 pages. However, neither publication anticipates nor renders obvious distributing content in a peer-to-peer communications network representative claim 14, *inter alia*

D. ...conducting a distribution lottery to select a distribution client from a pool of distribution clients comprised of at least the first user and the second user for downloading of the first content to a third remote content storage system [a third node in a peer-peer network]; and

E. providing a first award of points to the selected distribution client.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/
Primary Examiner
Art Unit 3625
9 September 2008